

REPORT - PLANNING COMMISSION MEETING
March 24, 2005

Project Name and Number: Union Street Townhomes (PLN2005-00027)

Applicant: Mohammed Hyder Khan, H&K Development Company

Proposal: To consider a General Plan Amendment to change the land use designation from Medium Density Residential, 15-18 dwelling units per acre to Medium Density Residential, 18-23 dwelling units per acre, a rezoning from Garden Apartment Residence (R-G-29) to a Preliminary and Precise Planned District (P-2005-27) to allow a 12 unit townhouse development on 0.54 acres.

Recommended Action: Recommend to City Council

Location: 3536 Union Street in the Irvington Planning Area

Assessor Parcel Number(s): 525-0641-002-01, 525-0641-002-07, 525-0641-002-09

Area: 0.54 acres

Owner: Mohammed Hyder Khan, H&K Development Company

Agent of Applicant: Mohammed Hyder Khan, H&K Development Company

Consultant(s): Wesley Sakamoto, Landscape Architect, Peter Jacobsohn, AIA, G&M Engineers

Environmental Review: A Mitigated Negative Declaration has been prepared for this project.

Existing General Plan: Medium Density Residential, 15-18 dwelling units per acre

Existing Zoning: Garden Apartment Residence, R-G-29

Existing Land Use: Single-Family Residential and two vacant lots

Public Hearing Notice: A total of 145 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Union Street, High Street, Main Street, Lincoln Street, High Common, Inglewood Common. The notices to owners and occupants were mailed on March 7, 2005. A Public Hearing Notice was delivered to The Argus on March 7, 2005 to be published by March 10, 2005.

In addition, a Notice of Preparation of a Draft Negative Declaration was delivered to The Argus on February 16, 2005 to be published on February 18, 2005.

Executive Summary: The applicant proposes a General Plan Amendment to change the land use designation from Medium Density Residential 15-18 units per acre to Medium Density Residential 18-23 units per acre, and Planned District Rezoning to construct twelve for-sale townhouse units on three existing lots totaling approximately 0.54 acres. Associated parking, circulation, landscape and street improvements are also proposed. One existing single family house would be demolished as part of the project. This project will also require a tentative tract map and private street application which will be brought back to the Planning Commission for approval at a later date.

Background and Previous Actions: A similar project on the same site was reviewed by the Planning Commission on November 6, 2003. This project was a request for a Planned District rezoning to construct eight townhouse units. The Planning Commission continued this item to allow the applicant to re-design the project based upon the Commission's comments. The applicant eventually withdrew the application and sold the property to the current owner. The Commission suggested the following:

- Increase the overall number of residential units (Previous request was for eight units).
- Improve the overall architecture/design, in particular, the units should appear as individual units.
- Move the building closer to the street and improve relationship of the front entrances to the street.

The applicant is aware of the previous project and the Commission's comments. This new applicant has redesigned the project in response to these comments which necessitated the need for a General Plan Amendment to increase the allowable density.

Project Description: The existing site includes three parcels. Two of the parcels are vacant and one has a single-story, single-family home in fair condition. The applicant is proposing to increase the land use density and rezone the site to accommodate twelve new townhouse units (removing the existing house), a Private Vehicle Access Way (PVAW), common open space area and associated landscape improvements. Ten of the twelve units are three stories, approximately 32 feet in height, and include "tuck-under" garages on the ground floor with two floors of living space above. The remaining two units, located in the southeast portion of the site, are two stories with garages and living space on the first floor and living space on the second floor. The new design is pedestrian-oriented and addresses both the Union and High Street frontages. Six units will front along High Street, with the corner unit designed to address both frontages, and one unit will front on Union Street. The remaining five units located internal to the site have pedestrian access via walkways from Union and High Streets. A tandem garage is proposed for one of the units. All twelve units contain three bedrooms.

Landscape and open space improvements are also proposed. The applicant intends to fully landscape the site with trees, shrubs, groundcover and lawn area. Approximately 900 square feet of common open space will be provided, and contain landscaping, a trellis, a BBQ grill and seating area.

Vehicular access to the units will be provided via a Private Vehicle Access Way (PVAW) off Union Street. The PVAW is 28 feet wide at grade and has clear width of 24 feet between the second and third stories of the units. Because the PVAW exceeds 150 feet in length it has been designed with a turn around area for emergency vehicles. To accommodate the turn-around a portion of the paved area will be designed with pervious pavers to accommodate vehicles and decrease the impervious surface area of the site. As part of the project the applicant will be required to install full street improvements along both Union and High Streets. The improvements will include street widening, sidewalks, landscape planters, street trees and curb and gutter.

PROJECT ANALYSIS:

General Plan Conformance: The existing General Plan land use designation for the project site is Medium Density Residential, 15-18 dwelling units per acre. The applicant has requested a General Plan Amendment to increase the density of the site to accommodate the twelve units. The current General Plan designation would allow nine units. The proposed density increase to 18-23 units per acre is proposed to allow twelve units.

The proposed project is consistent with the proposed General Plan land use designation for the project site because the project meets the mid-point density range of the proposed increase of 18-23 units per acre. The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

- *Land Use Policy 1.1 – Residential uses are the primary uses allowed in residentially designated areas.*

The project conforms to this policy because it is a residential use.

- *Land Use Policy 1.9 – To achieve a variety of housing types, the City has designated locations where moderate and higher density development is appropriate.*

The project conforms to this policy because this is an area designated for moderate density housing. The applicant is requesting a General Plan Amendment to accommodate more units as previously suggested by the Commission. Further, the proximity of the Irvington BART Station site encourages the development of mid to high density housing in the general vicinity.

- *Land Use Policy 1.23 – A variety of unit types and sizes shall be encouraged within each multi-family project.*

The project conforms to this policy because three unit types of various sizes are provided.

- *Land Use Policy 1.24 – Multi-family housing shall be designed to accommodate the needs of families and children.*

The project conforms to this policy because the applicant designed the units with three bedrooms each to accommodate families.

- *Housing Goal 2 – High quality and well-designed new housing of all types throughout the City.*

The project conforms to this goal because it provides new housing units that are constructed with quality materials and designed in a manner that relates to the street while providing interest and variety in the design.

- *Housing Goal 3 – Housing affordable and appropriate for a variety of Fremont households at all economic levels throughout the City.*

The project conforms to this goal because the units are designed with three bedrooms to accommodate families, and will provide one Inclusionary unit.

Irvington Concept Plan Conformance: The project site is located within the boundaries of the Irvington Concept Plan, however, the Concept Plan does not specifically address the project site. The Plan does recognize Main Street which is located one block to the south of the project site. In particular, the Plan recommends creating a mixed-use corridor along Main Street while improving the overall landscape and streetscape conditions in the area as a gateway to the future BART Station. Overall, the project is in conformance with the Irvington Concept Plan in that the streetscape along each project frontage will be improved with new curb and gutter, street trees and new sidewalks.

Redevelopment Plan Conformance: The project is also located within the boundaries of the Irvington Redevelopment Area. The project is consistent with the goals of the Irvington Redevelopment Plan because the project will result in the elimination of adverse physical conditions. The project also meets the following objectives aimed to achieve the goals of the Redevelopment Plan:

- *The improvement of safe and convenient pedestrian and bicycle circulation.*
- *The gradual transition and intensification of uses in proximity to the Irvington BART Station in a manner compatible with existing development.*
- *The elimination of substandard size lots and lots of irregular shape.*
- *The creation of sites of adequate shape and size for redevelopment in accordance with a unified development plan by assembling smaller parcels of inadequate size and shape.*
- *The encouragement of residential rehabilitation throughout the project area compatible residential development in appropriate locations.*

Zoning Regulations: The site is currently zoned Garden Apartment Residence, R-G-29. The applicant is proposing to rezone the site to a Preliminary and Precise Planned District to accommodate the proposed development. When evaluating Planned District's, staff references the zoning district most similar in purpose and function to the project. In this case, the R-3, Multi-Family Residence District, is the zoning district most similar to the project. The project as designed meets the majority of requirements of the R-3 District. The project meets the bulk massing and site design standards of the R-3 District, including setbacks, height, lot coverage and open space areas. The project also meets the intent of the development standards and guidelines which includes articulated facades, pedestrian orientation, circulation and landscaping.

Inclusionary Zoning: The project will meet the City's Inclusionary zoning requirements through the inclusion of one "for-sale" Below Market Rate (BMR) unit. This unit is proposed as a three bedroom townhouse designed in the same manner as the other units and will be located within the project site as Unit #10.

However, the applicant has requested that the Inclusionary Zoning Requirement not apply to this project. The applicant has submitted a letter with this request, attached to this report as Exhibit "I". The applicant feels that this project was a continuation of PLN2001-00312 that was continued by the Commission on November 6, 2003 and since Inclusionary requirements did not apply to that project, they should not apply to this project.

It should be noted that the current application was submitted after the Inclusionary Ordinance went into affect. It's the recommendation of the City that, although similar to the previous project, this project should be considered a new project because the property owner is new, a new application was filed with the City and the project has been substantially redesigned.

Parking: For a project of this size and scope, the Zoning Ordinance requires one covered parking space per unit for residents, 0.5 uncovered parking space for residents and 0.5 uncovered spaces for guests. This twelve unit project requires a total of 24 parking spaces including twelve covered, six uncovered spaces for residents, and six uncovered spaces for guests.

The applicant has proposed 24 covered spaces, two per unit, for residents and no on-site guest parking. The applicant feels that there is adequate street parking in the vicinity of the site for guests. The applicant is requesting an exchange in the required guest parking for resident parking as part of the Planned District. This request meets the intent of the findings needed to reduce on-site parking requirements as set forth in Section 8-22003, Article 20 of the Fremont Municipal Code. This section allows the Planning Commission to reduce on-site parking requirements if certain findings are made, which include:

- Proximity to transit
- Proximity to amenities and services
- Available on-street parking
- Tenancy that would require less than normal parking

The appropriate finding has been made as part of Exhibit D, Findings and Conditions of Approval, to approve the substitution of guest parking for residential parking.

Open Space/Landscaping: Per the R-3 Zoning District, 850 square feet of common open space is required for a project with twelve units. The applicant has provided approximately 900 square feet to meet this requirement. The applicant proposes to landscape this area and provide site amenities such as a trellis, BBQ Grill and seating area.

Private open space is also required for each unit in the form of either sixty square foot balconies or one hundred square foot patios. The applicant had proposed a variety of different private open space options for the units. Units #1-6 contain terraces along the front of the units of approximately 160 square feet. Units #7-10 contain 250 square feet private patio/yard areas in the rear of the units. Units #11-12 contain private rear yards, 260 and 280 square feet in size.

The project generally meets landscape setbacks around the perimeter of the site. One exception is the location of the pavers located adjacent to the eastern property line. Typically ten feet of landscaped buffer is required between parking and circulation areas and adjacent residential uses. The applicant proposes pavers to achieve an adequate surface for the emergency vehicle turn-around while providing a decorative, permeable surface area. This area will remain free and clear of any vehicles and only be used for emergency vehicle turn-around. To ensure this, staff proposes the applicant install a rolled, painted curb in front of this area to preclude vehicles from entering (Condition #A-15). However, it has been determined that a two foot landscape planter along this property line is allowable and will still maintain adequate turn around area for emergency vehicles. The planter shall be landscaped with low-lying groundcover. (Condition #A-16)

Waste Management: This project is subject to the provisions of the California Integrated Waste Management Act of 1989 (AB939), the City's Source Reduction and Recycling Element (1992), the Integrated Waste Management Ordinance (1995), and the Commercial/Industrial Recycling Plan (1997). These documents require that any new project for which a building permit application is submitted to include adequate, accessible, and convenient areas for collecting and loading trash and recyclable materials. The applicant has provided ample space in each unit's garage to store waste and

recycling containers. It has been indicated that each unit will be responsible to taking their containers to the street for pick-up. However, if waste is collected on site, there is ample turn around space for waste/recycling collection vehicles.

DESIGN ANALYSIS:

Architecture: The proposed units are designed in a contemporary style utilizing architectural features and projections to provide interest to the design while also accommodating increased floor area on the upper stories. The units are designed to embrace both street frontages by providing a pedestrian scale terrace along the length of High Street, and by providing porches and entry features for the two units fronting Union Street. The terrace will contain a limestone veneer and wrought iron railings and provide access from the sidewalk to the front doors of Units #1-6. However, staff feels that the limestone veneer should also be installed on other parts of the terrace, namely on the front of the stairways that lead to the front doors of Units #1-6, and on the entry features along the Union Street frontage (Condition #A-14).

The primary exterior building material is stucco with a variety of accent materials to provide interest and reduce the affect of large expanses of stucco. Secondary materials include: wood window trim, wood shutters and corbels, concrete tile on the terraces, slate tile on the entryways and steps, wrought iron railings and light fixtures and concrete tile roof.

The form and scale of the buildings include detailing and articulation which intend to provide variety from all angles and help to lessen the mass of the structure. Projections are included on all elevations to provide variation to the body of the structure while allowing increased floor area inside the units. Window awnings and shutters are included in certain locations to further provide interest and introduce secondary materials to the primary material. The roof line is varied to differentiate between individuals units.

The color palette has been chosen to provide a variety of warm base and accent colors to further differentiate between the units and provide another level of interest and detail. Proposed colors include Sherwin Williams Color Tones, *Renwich Olive* (pale green) and *Downing Straw* (tan). Accent colors would be included as part of the Redwood stained wood trim, shutters and corbels. The limestone veneer and concrete tile roof will add a natural look and earthiness to the project while complementing the natural color palette chosen by the applicant. The applicant has stated he is open to suggestions by the Commission regarding the color palette. The colors and material sample is provided as Exhibit "K".

Site Planning: The site plan for the project was influenced by the configuration of the overall project site. The units are divided among three structures, a six-unit building, four-unit building and two-unit building. The PVAW is located primarily in the middle of the site between buildings, provides access to all units and allows ample space for emergency vehicles. The units were positioned to maximize street frontage given the previous Commission's direction, the odd configuration of the site while also accommodating the PVAW. Units #11-12 are located in the rear southeast portion of the site and are designed differently to take advantage of the site configuration. These units are two stories and have a more rectilinear floor plan than the other units fronting the street. Unit #11 includes a tandem space garage to help achieve the goals of the site plan. An eight foot redwood fence, six feet solid and two feet of lattice, will run along the eastern and southern/southwestern property lines where the property abuts adjacent residential properties.

The PVAW has a minimum clear width at grade of 28 feet and is 32 feet between garage doors. The applicant is proposing to utilize decorative pavers and porous concrete, to distinguish between vehicular and pedestrian access while also providing interest to the hardscape and reducing stormwater runoff from the site. A five foot-wide band of decorative pavers will be located along each side of the PVAW adjacent to the garage doors. Pavers will also be utilized for a small section of the PVAW along the eastern property line.

Pedestrian access to the site is also provided along the eastern property line from High Street. A ten foot wide landscape buffer is located in this area and the applicant proposes a walkway from the sidewalk along High Street to Unit #12. A wrought iron gate will be installed along High Street to limit access into the site via this walkway.

The frontage along High Street will be fully improved with new curb, gutter, landscape planter and sidewalk. A two-foot wide planting area is located between the sidewalk and terrace for landscape material. The terrace itself is eight feet wide, which together with the landscape planter provides a ten foot building setback from the front property line. The site frontage along Union Street has already been improved up to the site property. However, a five foot dedication will be required to install a new sidewalk along this frontage. The applicant has provided a rendered site plan to illustrate between landscape, hardscape and building area on site. (Exhibit "E")

Landscaping: The applicant's landscape plan contains a variety of trees, shrubs and groundcover to provide landscape interest and improve the overall aesthetics of the project. The applicant will be required to install seven street trees as part of the street improvements, species will be determined by the City's Landscape Architect.

A variety of shrubs are proposed throughout the project site including around the perimeter of the site, along the base of the terrace along the High Street sidewalk and in a variety of landscape planters positioned throughout the site. Shrubs are also proposed along the base of the buildings and in between the garage doors within landscape planters. Shrub species include Dwarf Lily of the Nile, Kafir Lily, Gardenia, Escalonia, Australian Tea Tree and Shrubby Yew Pine. Groundcover, Gazania and Dwarf Periwinkle, are proposed in the front yards of the units along Union Street. The applicant also proposes groundcover within the landscape planter along Union and High Streets, although this area is within the City right-of-way and maintenance will require this area to be sod.

The common open space area will be landscaped primarily with sod and include a concrete pad to accommodate a trellis, seating area and a BBQ Grill. The BBQ grill is proposed as a permanently installed, masonry charcoal grill (Condition #A-17). Shrubs will also be planted in the vicinity of the common area, namely, Pink India Hawthorn. Staff is also recommending a shade tree in the common area. (Condition #L-2)

City Landscape Architect Review of Proposed Tree Removal and Preservation: The proposed project is located on a site that has 28 mature trees as shown on Exhibit L-4, Tree Demolition Plan. Of these trees, 24 trees are designated for removal, and 4 trees will be retained. The 24 trees designated for removal include 19 trees that are either dead or exhibiting decay (ref. Arborist Report dated 11/8/02 by John Leone, Certified Arborist ISA WC 1056); the remaining 5 trees are located in conflict with the proposed development and their preservation would require unreasonable modifications to the design of the project. Mitigation for the removal of these trees shall be upsizing of all street trees from 24" box to 36" box along Union and High Streets, and the creation of a tree shaded common green space within the project area. The project will preserve 5 trees in addition to mitigation, which is consistent with the provisions of the Tree Preservation Ordinance.

View/Solar Impacts: The adjacent property to the south contains a single-story, single-family home and will experience some loss of views and solar access. Properties further to the south may also be impacted; however, the greatest impact will be to the property immediately to the south. The height of the townhomes will limit the amount of sun that reaches the properties to the south in the morning hours. The property to the east may also be impacted by the height of the structure, although it is not anticipated that views and/or solar access will be significantly impacted.

However, staff feels that view or solar impacts to adjacent properties are to be expected in regards to the long term vision for this area, namely the inclusion of more medium density multiple family development near the Irvington Commercial Core and the future potential BART Station. Over time properties in the vicinity of the site could be combined and developed in a similar manner.

ENGINEERING ANALYSIS:

Circulation/Access: The project site is located on the southern corner of the High Street and Union Street intersection. The applicant is proposing one driveway on Union Street for vehicular ingress and egress. Pedestrian access is provided by a walkway along the southeast boundary with a gated connection to the public sidewalk on High Street. Staircases connect the public sidewalk to the terrace on the northeast side of units 1 through 6.

On site vehicular access is provided via a private vehicle access way (PVAW), a type of private street used for condominium and townhouse projects. Article 21.3 of the Zoning Ordinance, Special Provisions Applying to Miscellaneous Uses, requires all condominium projects conform to the provisions of Article 20 (parking code) and the City Council adopted development policy for private vehicle access ways (FMC 8-22135(3)(a)). Due to the design of the project and size/shape of the project site, the following PVAW principals and standards are not being met with this project:

- PVAW Policy #15: A walkway connection is to be provided from the private vehicle access ways to the main pedestrian pathway system. A 3.5 foot sidewalk shall be provided on both sides of the private vehicle access way.

Analysis: The size of the project site and the design of the units restrict the amount of available area for pedestrian facilities. Units 8 through 11 do not have dedicated pedestrian-only connections between the public sidewalk and the front doors of the units. The size and shape of the project site, along with the design of the townhouses, does not lend to the provision of sidewalk connections from each unit. Therefore, the applicant is proposing decorative pavers to differentiate between the vehicular area and pedestrian area along the PVAW.

Street Improvements: Right-of-way dedication and street improvements are required along both the High Street and Union Street project frontage. Both streets are residential collector streets with ultimate right-of-way widths of sixty feet and pavement widths of forty feet. Street improvements include, but are not limited to: removal of existing sidewalk, curb, and gutter; installation of new pavement, curb, gutter, driveway, sidewalk, landscaping, and storm drain facilities; and relocation of existing above ground and underground utilities.

The existing sidewalk on Union Street will be removed and the frontage will be improved to the City standard for residential sidewalk, which is separated from the curb and gutter with a landscaping strip and street trees. High Street includes some temporary curb and gutter, which will be removed with this project and replaced with standard sidewalk and landscaping. Transitional pavement and sidewalk is required at both ends of the frontage improvements and a new curb ramp is required at the street corner.

Grading/Topography: The project site encompasses three existing lots. These lots were created by a subdivision approved July 24, 1922 (Map of the Morton Tract, Town of Irvington). The corner lot is currently improved with a single family home, which will be demolished to accommodate the townhouse units. Several trees are also located on site.

On-site grades vary, but the project site is predominantly flat. The project civil engineer has provided a preliminary grading, drainage, and utility plan (sheet C1) for informational purposes. The estimated total grading for the project is 400 cubic yards (300 cut + 100 fill). The grading, drainage, and utility design is subject to review and approval prior to issuance of building permits or approval of the final map.

Drainage: The project site is located in the Irvington District and storm runoff from the site will eventually discharge to Laguna Creek, also known as Alameda County Flood Control and Water Conservation District Zone 6, Line E. Laguna Creek is designated a special flood hazard area by the Federal Emergency Management Agency (FEMA). Post development runoff from the project site shall not increase the flood hazard downstream. The project may be required to mitigate the effects of increased runoff from the project site. The project shall be designed to conform to the Hydrology and Hydraulics Criteria Summary for Western Alameda County. Hydraulic calculations will be required during subdivision improvement plan check. The on-site and off-site storm drain design, including the permeable pavement system, shall be subject to review and approval of the City Engineer and Alameda County Flood Control and Water Conservation District.

Urban Runoff Clean Water Program: The Federal Clean Water Act of 1972 and Water Quality Act (1987) require localities throughout the nation to obtain a National Pollutant Discharge Elimination System permit (NPDES) in order to discharge storm water into public waterways such as creeks, rivers, channels and bays. The applicant will comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board. Prior to approval of building permits or approval of the final map, the developer must demonstrate that the site design complies with the NPDES permit requirements.

Geologic Hazards: The site proposed for development is wholly located within the Alquist-Priolo Special Study Zone, as delineated on the State of California Earthquake Fault Zone Map, Niles Quadrangle R80. According to the Alquist-Priolo Earthquake Fault Zoning Act, Section 2623(a), the City shall require, prior to the approval of a project, a geologic report defining and delineating any hazard of surface fault rupture. A report was submitted, reviewed, and approved by the City. The approved report was submitted to the State Geologist, in accordance with the Alquist-Priolo Earthquake Fault Zoning Act. The approved geologic report concludes the property is appropriate for the development as proposed.

ENVIRONMENTAL ANALYSIS: An Initial Study and Draft Mitigated Negative Declaration, was prepared for this project. The environmental analysis identified concerns regarding potential impacts to air quality, biological resources and stormwater quality. The Draft Mitigated Negative Declaration includes mitigation measures, which, if implemented, would reduce the identified impacts to non-significant levels. These mitigation measures have been included as conditions of approval for this project. A more detailed description of the potential impacts is provided within the Initial Study for the project, which is included as an enclosure.

A finding is proposed that this project would not have a significant effect on the environment based upon the implementation of the identified mitigation measures. Accordingly, a Draft Mitigated Negative Declaration has been prepared for consideration by the Planning Commission and is included as an enclosure to this report.

Response from Agencies and Organizations:

This project was submitted to the Alameda County Congestion Management Agency (ACCMA) for review to determine if implementation of the proposal would create an impact on the regional transportation network. At the time of writing this report the Agency has not commented.

At the time of writing this report no other outside agencies have provided comments.

Staff did receive one letter of support for the project from a nearby property owner located at 3629 Union Street. This letter is attached as an informational enclosure, Exhibit "J".

APPLICABLE FEES:

Development Impact Fees: This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities and traffic impact. Residential projects/units will also be subject to park facilities and park dedication in-lieu fees. These fees shall be calculated at the fee rates in effect at the time of building permit issuance. The applicant is entitled to a fee credit for the one existing unit to be demolished.

ENCLOSURES:

- Exhibit "A" General Plan Exhibit
- Exhibit "B" Rezoning Exhibit
- Exhibit "C" Preliminary and Precise Site Plan, Floor Plans, Elevations, Landscape Plan, Preliminary Grading and Drainage Plan (12 Sheets)
- Exhibit "D" Findings and Conditions of Approval
- Exhibit "E" Rendered Site Plan (Informational)
- Exhibit "F" Aerial Photo (Informational)
- Exhibit "G" Planning Commission Minutes of November 6, 2003 (Informational)
- Exhibit "H" Applicant Design Statement (Informational)
- Exhibit "I" Applicant Request to Waive Inclusionary Requirements (Informational)
- Exhibit "J" Letter of Support (Informational)
- Exhibit "L" Mitigation and Monitoring Plan
- Initial Study and Draft Mitigated Negative Declaration

- Exhibit "1" Property Description
- Exhibit "2" Property Owner Consent Letter
- Exhibit "3" Professional Team Endorsement

EXHIBITS:

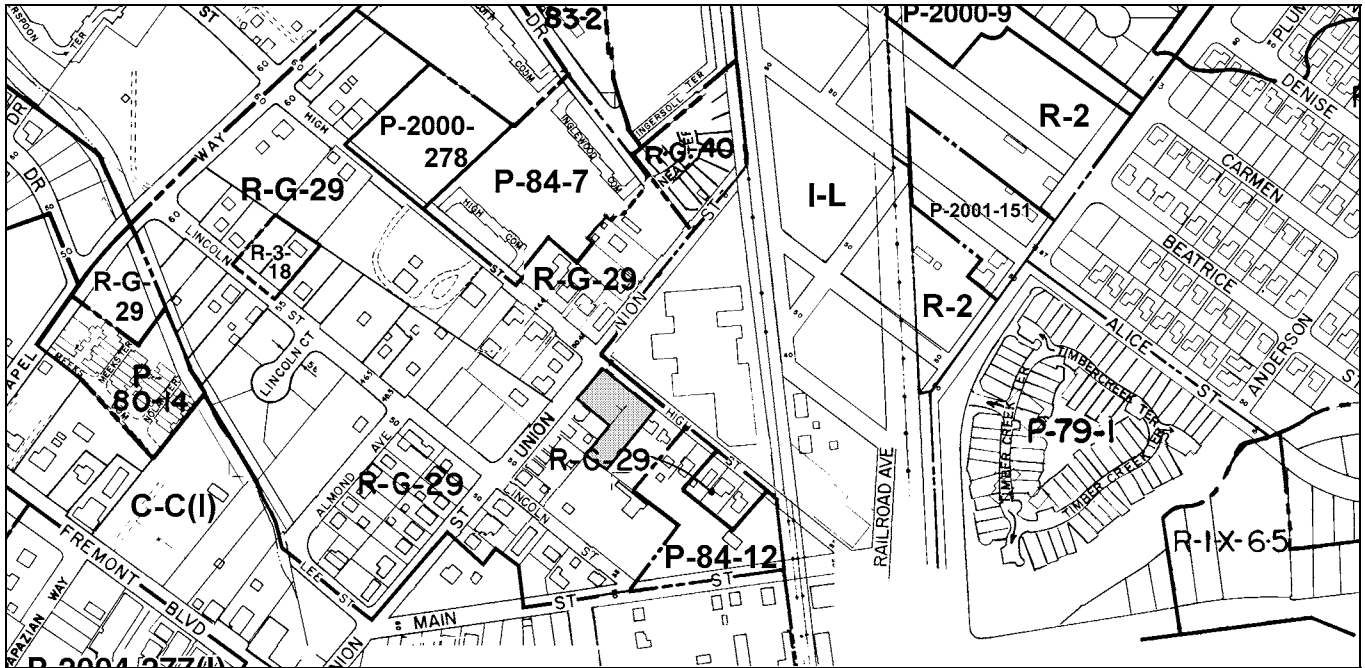
- Exhibit "A" General Plan Exhibit
- Exhibit "B" Rezoning Exhibit
- Exhibit "C" Preliminary and Precise Site Plan, Floor Plans, Elevations, Landscape Plan, Preliminary Grading and Drainage Plan
- Exhibit "D" Findings and Conditions of Approval
- Exhibit "K" Color and Material Board
- Exhibit "L" Mitigation and Monitoring Plan
- Initial Study and Draft Mitigated Negative Declaration

Recommended Actions:

1. Hold public hearing.

2. Recommend that the City Council find the initial study conducted for the project has evaluated the potential impacts that could cause an adverse effect, either individually or cumulatively, on wildlife resources and find that there is no evidence the project would have any potential for adverse effect on wildlife resources. As a result, recommend the filing of a Certificate of Fee Exemption for the project.
3. Recommend to the City Council the adoption of Draft Mitigated Negative Declaration finding that there is no substantial evidence that the project, as mitigated, will have a significant effect on the environment and further find that this action reflects the independent judgment of the City of Fremont.
4. Recommend to the City Council approval of the Mitigation Monitoring Plan for the project.
5. Find that the project is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use and Housing Chapters as enumerated within the staff report.
6. Recommend to Council approval of PLN2005-00027 to amend the General Plan land use designation for the project in conformance with Exhibit "A" (General Plan Amendment Exhibit).
7. Find PLN2005-00027, as per Exhibit "C" (Preliminary and Precise Site Plan, Floor Plans, Elevations and Landscape Plan), fulfills the applicable requirements set forth in the Fremont Municipal Code.
8. Find PLN2005-00027 is subject to the Inclusionary Zoning Requirements set forth in Article 21.7 of the Fremont Municipal Code.
9. Accept as complete:
 - Exhibit 1 - Professional Team Endorsement
 - Exhibit 2 - Property Owner Consent Letter
 - Exhibit 3 - Property Description
10. Recommend to the City Council the rezoning as shown on Exhibit "B" (Zoning Exhibit) and Exhibit "C" Sheet(s) 1-12 (Preliminary and Precise Site Plan, Floor Plans, Elevations, Grading/Drainage Plan and Landscape Plan) and Exhibit "E" (material color and sample board) for PLN2005-00027 be approved, based upon the findings and subject to the conditions of approval set forth in Exhibit "D".

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan



EXHIBIT "A"

Attached to and made a part of

Resolution No. _____

adopted by the City Council of the City of Fremont, California

On the _____ **day of** _____, **20** 05.

GENERAL PLAN LAND USE DIAGRAM (SECTION)

AFFECTS LAND USE DIAGRAM(S) FOR THE IRVINGTON PLANNING AREA



From: Residential, Med 15-18 du/ac

To: Residential, Med 18-23 du/ac

Project Name: Union Street Townhomes

Project Number: PLN2005-00027 (gpa)

[pc on 03-24-2005] 72-376, 72-380, 78-376, 78-380

SR

EXHIBIT "B"

Attached to and made a part of

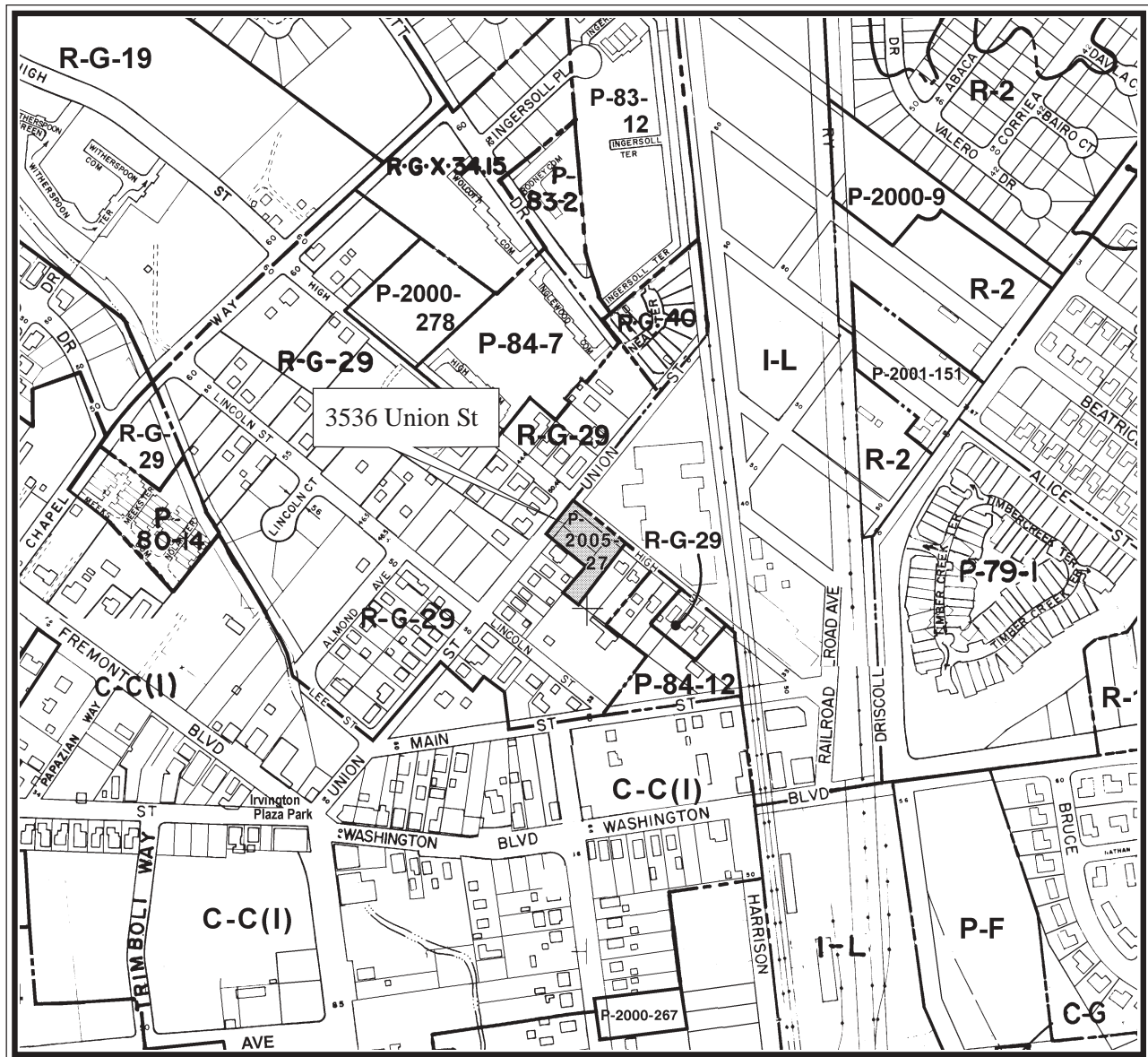
Ordinance No. _____

adopted by the City Council of the City of Fremont, California

On the _____ **day of** _____, **20** 05 .

ZONING MAP (SECTION)

AFFECTS ZONING MAP(S) FOR THE IRVINGTON PLANNING AREA



[pc on 03-24-2005] 72-376, 72-380, 78-376, 78-380

From: R-G-29

To: P-2005-27

Project Name: Union Street Townhomes

Project Number: PLN2005-00027 (rez)

SR

EXHIBIT "D"
Union Street Townhomes
PLN2005-00027

FINDINGS

The following findings are made by the Planning Commission on March 24, 2005, incorporated hereby:

1. The proposed "P" district, or a given unit thereof, can be substantially completed within four years of a preliminary and precise "P" district approval because the site is a size where construction of the project would be expected as a single-phase development.
2. That each individual unit of development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; that the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under another zoning district.
3. That the existing streets and thoroughfares and required on-site improvements are suitable and adequate to carry anticipated traffic, and anticipated future potential for site development will not generate traffic in such amounts as to overload the street network outside the "P" district because the site is suitable for the proposed use. The code-required on-site circulation and parking improvements can reasonably and adequately serve the residential development.
4. That any exception from standard ordinance requirements may be warranted by special design and planned district amenities incorporated in the future precise site plan, in accord with adopted policy of the Planning Commission and City Council. Upon proposal of a development project through the Planned District process, the applicant may propose modifications to the Fremont Municipal Code for Planning Commission consideration that will allow development that is consistent with the General Plan land use designation and the existing surrounding residences.
5. That the area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development. This site is an infill development, with the land surrounding this site already developed, but zoned for a higher intensity of development.
6. That the "P" district is in conformance with the General Plan of the City of Fremont. The project conforms to the General Plan land use designation of Medium Density Residential (18 to 23 dwelling units per acre) and is consistent with and implements the goals and policies of the Land Use and Housing Chapters of the General Plan.
7. That existing or proposed utility services are adequate for the population densities proposed. None of the responsible utility companies have stated they will be unable to provide the required services to the site.
8. All public improvements or facilities required as a part of this approval are directly attributable to the proposed development, and are required for reasons related to public health, safety and welfare.
9. Due to the availability of on-street parking, the guest parking requirement for the project will be lower than a development where adequate on-street parking is not provided.

General Conditions

- A-1 The approval of PLN2005-00027 shall conform to Exhibit "C" (Preliminary and Precise Site Plan, Floor Plans, Elevations and Landscape Plan), Exhibit "K" (Color and Material Sample Board) and all the conditions of approval set forth herein. This Planned District, P-2005-27, entitles the construction of twelve townhouse residential units.
- A-2 Plans shall be submitted to the **Development Organization** for review and approval to ensure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code.

- A-3 Minor modifications to the approved building designs, elevations and colors may be made, subject to review and approval of the Assistant City Manager or his/her designee if such modifications are in keeping with the architectural statement of the original approval. However, the Assistant City Manager shall retain the authority to determine the level of review required, including a Planning Commission review.
- A-4 The project shall be subject to all City-wide development impact fees. These fees may include, but are not limited to, fees for fire protection, park dedication, park facilities, capital facilities and traffic impact. The fees shall be calculated at the fee rate in effect at the time of building permit issuance. A fee credit shall be given for the existing home to be demolished.
- A-5 Construction hours will be limited and no construction will be allowed on Sundays or holidays. Construction activities shall be limited to the following hours of operation: 7 a.m. to 7 p.m. Monday through Friday; 9 a.m. to 6 p.m. Saturday.
- A-6 Lighting associated with the project shall be subject to staff review and approval during the Development Organization review process, and shall be of a pedestrian scale, and residential and decorative nature.
- A-7 The applicant shall include the following mitigation measures into the project:
1. To mitigate the identified air quality impacts of grading and construction, dust suppression measures shall be incorporated into the project conditions of approval and construction drawings. Dust generated on the project site shall be controlled by watering all exposed areas at least twice daily during excavation, and especially during clearing and grading operations. Additional watering on windy or hot days is required to reduce dust emissions. Stockpiles of sand, soil, and similar materials shall be covered with a tarp. Cover trucks hauling dirt or debris to avoid spillage. Paving shall be completed as soon as feasible to reduce the time that bare surfaces and soils are exposed. In areas where construction is delayed for an extended period of time, the ground shall be replanted to minimize the generation of dust. Designate a person to oversee the implementation of the dust control program.
 2. The applicant will be required to plant additional trees, other than what would normally be required as mitigation for the proposed trees to be removed. Size and species of the mitigation trees will be determined by the City's Landscape Architect during the Development Organization review process.
 3. The applicant will be required to have a professional wildlife biologist conduct a burrowing owl survey of the project site for biological resources of significance at the site planning and architectural review stage, or 30 days prior to grading. If the protocol survey is completed no more than 30 days prior to grading/ground disturbance activity, no further surveying will be required. Otherwise, a separate pre-construction survey for burrowing owls is required no more than 30 days prior to any grading or ground disturbance to determine the presence of owls. The survey results shall be approved by the Development Organization.
 4. Should any cultural resources be unearthed during site development work, the provisions of **CEQA Guidelines -Section 15064.5(e) and (h)**, will be followed to reduce impacts to a non-significant level.
 5. As with all new construction in the region, the project will be subject to appropriate engineered designs and applicable building and safety codes in order to ensure the primary and secondary effects of ground shaking will be less than significant. Future construction that could be facilitated as a result of this project will be required to submit individual soil erosion plans to ensure that impacts from soil erosion will be less than significant.
 6. Standard water pollution and erosion control measures following Best Management Practices (BMPs) will be implemented to prevent runoff and sedimentation from entering the storm drain system. The project shall achieve compliance with the Alameda County Urban Storm Water Runoff Program, in conformity with the National Pollution Discharge Elimination System (NPDES) program established by the Clean Water Act.

- A-8 All mechanical equipment, including any roof-mounted equipment, (i.e. air conditioning units or similar) shall be screened from view from adjacent public and private rights-of-way, on-site parking, and neighboring residential properties.
- A-9 Final building design, colors and materials shall be consistent with Exhibit "C" (Preliminary and Precise Site Plan, Floor Plans, Elevations, Landscape Plan, Preliminary Grading and Drainage Plan) and Exhibit "K" (Color and Material Sample Board), subject to staff review and approval during Development Organization review. The applicant shall work with staff on defining architectural details and materials, and on the final choice of colors. Color choices may be field tested prior to final approval.
- A-10 Garage door design shall be modified to coordinate with the overall style of the structures, subject to staff review during the DO process. All garage doors shall be equipped with automatic garage door openers.
- A-11 The final design, layout, and construction of the proposed development shall conform to the Security Ordinance, No. 2484, as amended, including a lighted street address and appropriate security measures, subject to the review and approval of staff during the Development Organization review process.
- A-12 No exterior additions or modifications to the residences, including the addition of pre-manufactured sunrooms, shall be permitted. This condition shall be incorporated into the CC&Rs for this project. Additionally, this condition shall be incorporated as a deed restriction for each lot within the development, subject to the review and approval of staff prior to the acceptance of the first Final Map for this project.
- A-13 The applicant shall notify Planning staff of the construction schedule. At the time of installation of framing and stucco/siding, the applicant or a representative of the applicant, shall request an on-site inspection by the project planner, to ensure compliance with the architectural detailing of the residences.
- A-14 The limestone veneer along the front terrace shall also be added to the steps leading to the individual units and to the entry features along the Union Street façade subject to review and approval during the Development Organization review process.
- A-15 The applicant shall install a rolled curb in front of the area dedicated for emergency vehicles to prevent parking in this area subject to review and approval during the Development Organization review process.
- A-16 The applicant shall maintain and install a two-foot landscape planter along the eastern property line in the area dedicated for emergency turn-around. This planter shall be landscaped with low lying ground cover only.
- A-17 The applicant shall install permanent, masonry charcoal BBQ grill within the common open space area subject to the review and approval of staff during the Development Organization review process.

Landscape Conditions

- L-1 The following 4 onsite trees, per the Arborist report submitted for the project, are to be preserved: Key #P (Taxus), #Q (Arborvitae) #X (Ulmus), #XX (Ulmus).
- L-2 An accessible common open space shall be provided within the project site. Components of this space shall include paved surfaces, shade trees, a trellis/arbor structure, seating and planting. Layout and details shall be subject to Staff approval through Tract Improvement Plan review.
- L-3 Raised planters matching the building finish shall be included along the Alley. Shrub planting and a durable trellis/lattice to support an espalier shall be provided. Planters shall be free of utility meters and structures.
- L-4 Branches from mature trees should not overhang buildings and roofs. As such, adequate space to plant trees adjacent to buildings or other built features must be provided in the following minimum ways:
a) Small trees (to 15 feet tall) no closer than 6 feet from building or 2 feet from paving, curbs, or walls with a minimum planting area 5 feet wide.

- b) Medium trees (to 30 feet tall) no closer than 10 feet from building or 3 feet from paving, curbs, or walls with a minimum planting area 6 feet wide.
- c) Large trees (above 30 feet tall) no closer than 15 feet from building or 3 feet from paving, curbs, or walls with a minimum planting area 6 feet wide, preferably 8 feet wide.

- L-5 All planting areas containing trees shall be free of all utility structures (including light standards) and other built features consistent with the spacing requirements of City Standard Detail SD-34 City Standard Street Tree Clearances. In order to install all the trees shown on the Landscape Plan, utilities may require relocation subject to staff approval during Tract Improvement Plan review.
- L-6 Landscape plans shall be submitted with Tract Map Improvement Plans for review and approval, indicating full details regarding (1) paving materials and textures of walkways and paved pedestrian areas, (2) lighting of walkways and pedestrian areas with low intensity non-glare type fixtures, and (3) landscaping of site and open areas. As part of the landscape plans the applicant shall submit:
 - a. An underground irrigation plan.
 - b. A lighting plan for the illumination of the building, pedestrian and parking areas. Type of lighting fixtures, their heights, intensity and direction shall be clearly indicated.
 - c. Construction details of raised planters, walkways, paths, benches, walls, fences, trellises, and other architectural features as appropriate to the project.
- L-7 The final Building Permit plans as approved through the Development Organization review process shall include, as reference, the Landscape Plans approved through Tract Improvement Plan Review.
- L-8 All provisions of the current version of City of Fremont Landscape Development Requirements and Policies (LDRP) shall apply to this project unless otherwise approved by the City Landscape Architect.
- L-9 The applicant shall provide a total of 7 Street trees of 36" box size on Union Street and High Street and planted in conformance with City Standard Tree Detail SD-34.

Engineering Conditions

- E-1 A tentative tract map application and private street application shall be submitted for Planning Commission review and approval, and may be subject to modifications at the time of review.
- E-2 The tentative tract map application shall include full-width, scaled cross sections of High Street, Union Street, and the on-site private vehicle access way. The cross sections shall include the location of underground utilities within the streets.
- E-3 The Developer shall dedicate right-of-way and install complete street improvements for the public streets surrounding the project site: High Street and Union Street. The following are the minimum dedication and street improvement requirements for these public streets.
 - a. High Street: Residential collector street with an ultimate right-of-way width of sixty-feet and a pavement width of forty feet. An approximate five-foot right-of-way dedication is required along the High Street project frontage. The developer shall install complete street improvements up to the centerline of High Street. Street improvements include, but are not limited to: removal of existing curb and gutter; installation of pavement, curb, gutter, landscaping, sidewalk, streetlights, fire hydrants, and storm drain facilities; and relocation of existing utilities (including overhead utilities). Transitional pavement and other transitional improvements are required at the southeast end of the High Street frontage, subject to determination, review, and approval of the City Engineer.
 - b. Union Street: Residential collector street with an ultimate right-of-way width of sixty feet and a pavement width of forty feet. The developer shall install complete street improvements up to the centerline of Union Street. Street

improvements include, but are not limited to: removal of the existing monolithic sidewalk; installation of curb, gutter, landscaping, sidewalk, streetlights, fire hydrants, storm drain facilities; and relocation of existing utilities (including overhead utilities). Transitional sidewalk is required at the southwest end of the Union Street frontage, subject to determination, review and approval of the City Engineer.

- E-4 The developer shall underground the existing overhead utility lines along the project High Street frontage, from the corner intersection of Union Street to the eastern corner of the project boundary.
- E-5 The developer shall comply with the City's Urban Runoff Clean Water Program in accordance with the Alameda Countywide NPDES Municipal Stormwater Permit, Order R2-2003-0021, NPDES Permit No. CAS0029831. In particular, the project plans shall include measures to demonstrate compliance with permit section C.3.d, Numeric Sizing Criteria for Pollutant Removal Treatment Systems. The project civil engineer shall include stormwater treatment hydraulic calculations with the first plan submittal for building permits.
- E-6 In accordance with the Alameda Countywide NPDES Municipal Stormwater Permit, Order R2-2003-0021, NPDES Permit No. CAS0029831, the property owners shall enter into a maintenance agreement for the long-term operation and maintenance of on-site stormwater treatment measures. The agreement shall run with the land.
- E-7 The homeowners association is responsible for litter control and for sweeping of all paved surfaces within the common areas. Sidewalks, parking lots, and other paved areas must be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry into the storm drain system. No cleaning agent may be discharged to the storm drain.
- E-8 All public and private storm drain inlets are to be stenciled "No Dumping - Drains to Bay" using thermoplastic stencils purchased from the City of Fremont Maintenance Division. Alternative inlet stencils or marking may be permitted, subject to City Engineer approval during final map and subdivision improvement plan checking.
- E-9 All on-site storm drains are to be cleaned prior to building occupancy and also be cleaned each year immediately before the beginning of the rainy season (October 15). The City Engineer may require additional cleaning.
- E-10 All landscaping shall be properly maintained and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which can contribute to runoff pollution.
- E-11 "Permeable Decorative Pavers" and porous concrete, as shown on exhibit "A" (sheet A-1) or other alternative permeable pavement system, shall be permitted within the project, subject to review and approval of the City Engineer prior to final map approval. The design team shall provide calculations and specifications demonstrating that the design meets or exceeds development standards and hydrology criteria.
- E-12 The applicant shall submit a detailed soils report, including recommendations regarding pavement structural sections and the permeable pavement structural sections. A qualified soils engineer registered by the State of California shall prepare the report.
- E-13 Grading operations shall be in accordance with recommendations contained in the required soils report and shall be supervised by an engineer registered in the State of California to do such work.
- E-14 The applicant shall provide for a functional system to control erosion and siltation during and after construction subject to review and approval by the City Engineer or Alameda County Flood Control and Water Conservation District. A separate plan shall be submitted for this purpose during Development Organization.
- E-15 The applicant shall provide hydraulic calculations and drainage maps for the proposed storm drain system. Storm drain plans, drainage maps, and hydraulic/hydrologic calculations are subject to City Engineer review and approval. The calculations shall address the post development affect on downstream facilities classified as special flood hazard areas and offer recommendations to mitigate increased runoff from the project site.
- E-16 Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.

- E-17 Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grades are to be a minimum of 0.75 feet above the hydraulic grade line.
- E-18 Above ground architectural and building features that project over the proposed property line, shall be permitted on townhouse units by easements. Such features include, but not limited to, eaves, bay windows, balconies, porches, landings, and stairways, permitted by easement. Foundations for townhouse units must be contained within the individual lot. The details of these easements, including dimensions and descriptions, shall be included on the tentative tract map.
- E-19 All new utility service connections, including electrical and communications, shall be installed underground. Electrical transformers shall be installed in underground vaults within a public service easement.

Fire Department Conditions

- F-1 The applicant shall install an automatic fire sprinkler system in the building for fire protection purposes. Waterflow and control valves must be monitored by a central alarm monitoring system and Central Station, except single family dwellings. The monitoring system shall have a smoke detector placed over the fire panel, a pull station, and an audible device located in a normally occupied location.
- F-2 Plan, specifications, equipment lists and calculations for the required sprinkler system must be submitted to the Fremont Fire Department Authority and Building Department for review and approval prior to installation. A separate plan review fee is required. Standard Required: N.F.P.A. 13 R
- F-3 The applicant shall provide the Fremont Fire Department with a site plan/ Civil Utility Plan for approval of public and on-site fire hydrant locations.
- F-4 The applicant shall comply with Fremont code requirements for installation of fire retardant roof coverings.
- F-5 The applicant shall provide all weather surface (paving) for emergency vehicle access within 150 feet of all construction or combustible storage. This access shall be provided before any construction or combustible storage will be allowed. UFC 902.2.1.
- F-6 The applicant shall install Fire alarm system as required. The system must be monitored. The system must be N.F.P.A. 72 compliant and have an interior audible device per the U.F.C. Upon completion a "UL" serial numbered certificate shall be provided at no cost to the City of Fremont Fire and Life Safety Inspector. Fire alarm systems devices shall be addressable and report to the Central Monitoring Station addressable.
- F-7 Buildings over 35' in height require fire apparatus roadways with a minimum 26' width. Set back from buildings must equal 1/4 height of the building plus a 26' roadway. Ex: 4 story 48' peak roof divided by 1/4 = 12' setback, plus 26' roadway. If a fire hydrant is required, the road must be 26 foot wide for 20 feet on both sides of the hydrant(s).
- F-8 Address must always be visible from Public Street or PVAW.
- F-9 Any/all new street names and addressing shall be approved by the Fire Department.
- F-10 A driveway access serving one dwelling/structure shall have a minimum 20 foot unobstructed width driveway/access road. The access road must provide all portions of the first floor with the required 150 feet access to the rear of the building. A driveway/ access road serving two or more dwelling/structures shall have a minimum 20 foot unobstructed width. A driveway access serving three or more dwelling/structures shall have a minimum 20 foot unobstructed linear width. These driveways/access roads shall be designated as Fire Lanes. Driveway /access roads and shall meet Fire Department standards for distance, weight loads, turn radius, grades, and vertical clearance. Approved turnarounds shall be required for distances over 150 feet from public streets. Other mitigation's shall/may be required in addition to those listed. (UFC 1994, Sec. 902.2 as amended)

- F-11 Fire hydrant spacing requirement is: 300 feet. The distance is measured as the fire engine travels on all-weather surfaces.
- F-12 The applicant must immediately notify the Fremont Fire Department, Hazardous Materials Unit of any underground pipes, tanks or structures; any suspected or actual contaminated soils; or other environmental anomalies encountered during site development activities. Any confirmed environmental liabilities will need to be remedied prior to proceeding with site development.